

# TRANSCRIPT

## STANDING COMMITTEE ON THE ECONOMY AND INFRASTRUCTURE

### Inquiry into the Road Safety Road Rules 2009 (Overtaking Bicycles) Bill 2015

Melbourne — 31 May 2016

#### Members

Mr Joshua Morris — Chair

Ms Colleen Hartland

Mr Khalil Eideh — Deputy Chair

Mr Shaun Leane

Mr Nazih Elasmr

Mr Craig Ondarchie

Mr Bernie Finn

#### Participating Members

Ms Samantha Dunn

#### Staff

Secretary: Dr Christopher Gribbin

#### Witness

Mr Phil Ayres, Chief Executive Officer, Cycling New South Wales (*via videoconference*).

**The CHAIR** — I might just begin by declaring open the Standing Committee on the Economy and Infrastructure public hearing. Thank you, Mr Ayres, for providing evidence. I will just explain that the committee is hearing evidence today in relation to the Road Safety Road Rules 2009 (Overtaking Bicycles) Bill 2015, and today's evidence is being recorded. All evidence taken today is protected by parliamentary privilege, and therefore you are protected for what you say today, but if you were to repeat those same things, those comments may not be protected by this privilege. Thank you, Mr Ayres, for agreeing to provide evidence. At this juncture I might hand over to you if there are any introductory comments that you might like to make, and then we will move into some questions from the committee from there. Over to you.

**Mr AYRES** — Sure. Thank you for the opportunity to address your committee, and obviously as part of the cycling family around the country, it is an issue that is quite dear to all of our hearts. I know you have had other people appear before you in recent weeks and indeed this day as well.

Just to frame my comments and give you some perspective, Cycling New South Wales is the peak body traditionally for cycle racing but also for recreational participation and, I guess, high-volume cyclists in our community. We have affiliates around the country, and indeed Cycling Victoria are aligned with us through Cycling Australia, which is our national sporting organisation.

As you would obviously be aware, minimum passing distance laws were introduced into New South Wales in March of this year for a two-year trial, and the process that was undertaken to bring those about was through a series of roundtables, so the process was a little different than what you are going through in Victoria. Various parties, both cycling groups and road user groups and the pedestrian council and a number of the agencies and departments of government, came together to discuss the various implications and opportunities around minimum passing distances.

I guess something that is a stand-out with what occurred in New South Wales — I have some commentary around that — is that the passing distance laws were coupled together with changes to the infringement levels for cyclists, should they infringe on the road rules. Indeed there was one additional law brought into place for action in March of 2017, and that is the mandatory requirement of identification for cyclists who are over 18 years of age. My comment around that is that I feel that, by coupling those two issues together, the opportunity around education and culture change in terms of treating cyclists as vulnerable road users and therefore creating a particular piece of legislation for their protection was lost in a great deal of conjecture and commentary by cyclists themselves around the increases in the fine levels, which in some cases were \$300 or \$400 increases. I think that was a key learning in New South Wales. Albeit well intentioned by the government and the minister to create a holistic package around cycle safety, I think the opportunity around minimum passing distance education was severely hampered by that. I think that was the stand-out lesson.

We, along with the Amy Gillett Foundation and Bicycle New South Wales, met with Transport for NSW and the assistant commissioner of police as recently as last week, and we reviewed progress to date. That was certainly one of the outcomes of the meeting — that education around passing distances is key and probably needs to be ramped up in terms of motorist behaviour.

The other comment I would make at the outset is that this is about culture change, and cyclists are vulnerable road users. Culture change and behaviours take a long time, and our view was that by boutiqueing the infringement of passing too close to a cyclist allows targeted, salient education campaigns. It is our view that just to begin with happy education campaigns without that hook of 'It is against the law' probably does not give them the teeth that they necessarily need. I would look at things like changes to seatbelt laws in the 70s and random breath-testing and drink-driving in the 80s. Whilst it is inappropriate to drive without a seatbelt or to drive under the influence of alcohol, coupling those with severe penalties and punitive results of those behaviours is the necessary bookend to that education campaign about safety, responsible driving and being a road user.

**The CHAIR** — Okay. Is that the conclusion of your introductory comments?

**Mr AYRES** — Yes, and that is probably what basis [inaudible] — —

**The CHAIR** — Thank you, and I might begin with the first question there. It relates to what you were mentioning earlier about the mandatory identification needing to be carried by riders over the age of 18. I am wondering, was Cycling New South Wales supportive of that change? What was the view of your organisation?

**Mr AYRES** — Yes, it was a challenging one for our organisation, I will be honest. In the context of the roundtable discussions it was pitched to us some way in terms of, ‘If we’re going to go down and provide the minimum passing distance laws, are you going to give up a little bit?’, because licensing of cyclists was a very hot media topic, and there were a lot of motorists and shock jocks, if you will, who were advocating that all bike riders should carry registration and licensing. Registration and licensing, though, have never changed behaviours, because what they allow are positive identification of people who may infringe. I guess we took a pragmatic position that said, well, carrying a licence is good practice in terms of if you are injured or worse, in terms of identification by emergency services. I guess that was the price that we were prepared to pay to have those laws brought into effect in New South Wales.

Certainly amongst our membership I would say the view is against needing to carry licences or the compulsion to do it. I do not think most people understand the rationale from an altruistic perspective, but there is a degree of cynicism that that allows police to target you and fine you and ‘Let’s go after cyclists’. So I think a lot of it is how it is couched as much as what the actual legislation is. That is an advisory until March of next year, when it will become law. Whether or not the minister looks to soften on that, I am not sure.

The other thing I will add is that there was a requirement that it was an official identification that is recognised by state government, so that would be a drivers licence, passport or what have you. There are practicalities around people taking their licence out of their wallet, sticking it in their back pocket when they are riding a bike, forgetting to put it back in, losing it, being pulled over for a random breath test when they are driving to work and, ‘Oh, my licence is in my spare tube bag on my bike’. So we started to talk about whether identification of a Cycling Australia membership card would be efficient to meet that ID requirement. The minister was receptive to that approach, but we have not progressed it.

**The CHAIR** — That sounds interesting.

**Mr EIDEH** — Mr Ayres, I have a couple of questions for you. The first one is: how can we learn from the implementation of minimum passing distance rules in New South Wales?

**Mr AYRES** — I think a lot of it is around, as I said earlier, coupling any changes to the fine levels for the infringements for cyclists is very counterproductive in the messaging and education opportunity around putting minimum passing distances into place, so my suggestion is that they are separated and you go with the single play, and that is introducing minimum passing distances. My understanding — and correct me if I am wrong — is that in Victoria the quantum of money for infringements for cyclists have gone up within the last few years, and they are probably similar to New South Wales levels or thereabouts.

**Mr EIDEH** — My next question is: would you recommend a trial period of these laws for Victoria, as has occurred in Queensland and has commenced in New South Wales as well?

**Mr AYRES** — I think that is a pragmatic approach because obviously, by having an inquiry and some of the commentary I have seen around, in Victoria there are groups against bringing in the laws and there are some concerns by police and others around some of the practicalities or the legal precedents. So I think the trial period allows everybody some breathing space, and what you are then able to do is put some baseline measurements in place before you start the trial in terms of behaviours, and then you are able, over a period of 18 months, two years or whatever the trial period is, to assess what change if any has occurred, both positively and negatively.

Something that was very positive that Transport for NSW have done is that they did a number of baseline reviews. They put fixed cameras in certain spots on Sydney roads, which have remained confidential, and they will go back there on several occasions and they will be looking to see if there have been changes to motorists’ behaviour using that [inaudible] at the same place at the same time. We can see what [inaudible] their behaviours.

**Ms HARTLAND** — Could you talk a little bit more about that baseline evidence in terms of the cameras et cetera? Who is operating the cameras to look at driver behaviour?

**Mr AYRES** — Yes. Look, I will stand corrected on the organisation, but my understanding is that it engaged a third-party consultant to do a number of attitudinal surveys of motorists and cyclists, and it also included this hard data of actually putting in place cameras to monitor compliance. So it was an independent group that was contracted to repeat that in 6-monthly or 12-monthly increments.

**Ms HARTLAND** — Do you know if any of that data is available yet?

**Mr AYRES** — Look, it certainly would be from Transport for NSW. Probably two months ago we were given preliminary information that they were not prepared to circulate or give to us, but certainly that department would have that information. At your level, I am sure you would be able to get access to it to help you with your decision-making.

**Ms HARTLAND** — In New South Wales, did Cycling New South Wales support this law?

**Mr AYRES** — Yes, we did.

**Ms HARTLAND** — Bicycle Network Victoria has put in a submission that there should be exemptions around areas where the speed goes below 50 kilometres. Is that something that you looked at?

**Mr AYRES** — No, that was not something that came up in discussions at all at our roundtables or subsequently. Indeed, again, it was not a point of discussion at our recent review with the police and transport hierarchy. Again, in the social media commentary and among radio shock jocks there has been no discussion about there being issues of enforcement around those areas where speeds are low and congestion is high. It just has not come to light. I would not imagine it was a Melbourne-centric issue, but I do not know why it has not come to light in New South Wales. Maybe it is not really anything that will come to light. Again, I think it is an element of pragmatism by the police and the individual officers when they are enforcing these things.

The other comment I would make, which I probably should have made at the outset, is that with these new laws cyclists are obviously very vigilant about motorists whom they believe have infringed. With the police, that could be something that was a little better handled in terms of when a cyclist goes to a police station and says, ‘This vehicle with this registration number came within 30 centimetres of me and nearly knocked me over’. There are issues around prudence that are difficult for police, and we understand that, but there is an element of emotion when a cyclist feels that someone has broken the law and the police will not prosecute them. Again, that is around education and expectations, but it is certainly not enough to move away from implementing the law, which we maintain is about an opportunity around education and culture change.

**Ms HARTLAND** — From your members are you getting the sense that they feel safer since the law was implemented?

**Mr AYRES** — Yes, I have had some discussions recently, and the view is that they feel that there are some positive changes out on the road. They certainly feel that. There are always motorists who will go the other way, and what motorists will say about bike riders is, ‘You’d better not do this, that or the other, or you’re going to cop a fine of \$500’, and then try to knock them over. Now, I think those people will try to knock them over anyway. I think it just creates a little bit of emotion. Generally speaking there is a feeling that there is growing awareness but there is a long way to go.

**Ms HARTLAND** — So for the majority of drivers, who are reasonable people, it probably has made them more alert to the issues.

**Mr AYRES** — Absolutely, yes. If I use my own example, I am not a cyclist of any great capacity or very often at all. Being in this role, my awareness of cycling as an issue has been raised immeasurably. I can tell you that I personally am extremely conscious when I pass a cyclist. As a motorist prior to that, I was certainly less aware of the vulnerability of cyclists. I consider myself a reasonable, average motorist, and it is about awareness and awareness of vulnerability. You do not have to knock somebody over to cause an issue with them; losing control and feeling threatened are some unintended consequences of your driving. That is why we are quite supportive of it. At the end of the day, cars and bikes do not mix if they hit each other. Cyclists are exposed, so creating a buffer by way of a legal distance theoretically will keep them out of each other’s space.

**The CHAIR** — Very good. Thank you, Mr Ayres, for your time today and for providing evidence to the committee. I will just let you know that in the coming days you will receive a copy of the transcript of your evidence for proofreading, and that transcript will ultimately be made public and posted on the committee’s website. Once again, thank you very much for your time today.

**Committee adjourned.**